

# INFORMATION LETTER

Not for  
Publication

NATIONAL CANNERS ASSOCIATION

For Members  
Only

No. 749

Washington, D. C.

July 1, 1939

## Please Act on This Promptly

Canners will this week receive from the National Bureau of Standards the Simplified Practice Recommendation on can sizes for fruits and vegetables, which was prepared with the cooperation and approval of the Association's Committee on Simplification of Containers. All canners are earnestly requested to take prompt action upon the request of the Bureau of Standards for approval of this recommendation. Prompt approval and adherence to the recommendation will make unnecessary any Congressional action on the can size problem.

## HEARING HELD ON INJUNCTION AGAINST "AREA OF PRODUCTION" REGULATION

### Temporary Restraining Order Continued Pending Decision Expected in Near Future

On June 26th and 27th Federal Judge Alexander Akerman of the United States District Court for Florida heard argument on the application of the Florida fresh fruit packers and canners for a preliminary injunction against enforcement of the "area of production" definition issued by Administrator Andrews. On June 19th, a temporary restraining order had been issued and the hearing on the application for a preliminary injunction was held at Asheville, North Carolina. At this hearing virtually all of the fresh fruit packers and canners in Florida asked to be permitted to intervene as parties to the suit. The Government moved to dismiss the suit as to Mr. Andrews on the ground that he was not subject to the jurisdiction of the Florida court. This motion was granted.

The Government also moved to dismiss the suit against the Wage and Hour Inspector for Florida and the United States Attorney, for a wide variety of reasons: First, because neither the inspector nor the United States attorney had any authority to enforce the Act unless given specific instructions from either Administrator Andrews or the Attorney General in Washington; second, because there had been no allegation of direct threats of enforcement by either of these defendants; third, because Mr. Andrews and the Attorney General were indispensable parties not subject to the jurisdiction of the Court and that the subordinate officials could not be sued unless their superiors were joined as defendants; fourth, because there were insufficient allegations of irreparable injury in the event of compliance; fifth, because the issuance of an injunction would not be binding on either Mr. Andrews or the Attorney General and that even if the definition were declared void, the plaintiffs would, in the absence of any

valid definition, be without an exemption; and, finally, that the suit was in reality a suit against the United States which had not consented to be sued. Government counsel also suggested that the complaint raised questions as to the constitutionality of the Act and the regulation and that therefore a court of three Federal judges was necessary.

Supporting affidavits were filed by the plaintiffs and counsel for the Government was given 5 days in which to file reply affidavits. A decision on the application for a preliminary injunction is expected in the very near future and in the meantime the temporary restraining order was continued in effect.

## Confusion as to 14-Week Exemption

Recent inquiries by a number of canners indicate that inspectors of the Wage and Hour Division are in some instances confused as to the application of the 14-week exemption in Section 7 (c) of the law with respect to the canning industry.

As repeatedly stated in bulletins and in the INFORMATION LETTER, where a cannery is not within the area of production it is subject to both the wage and hour requirements of the law, but where such cannery operates on seasonal or perishable fruits or vegetables, it is exempt from the work-week limitation for any 14 weeks in the aggregate in any calendar year. Such 14 weeks need not be consecutive and during each of them canneries may operate without any weekly hour limitation and without payment of overtime.

Unfortunately, a number of the recently appointed Departmental inspectors are not familiar with these fairly complex statutory provisions. In the reported cases, inquiries made by the inspectors to the officials in Washington have clarified the situation. If any inspector suggests an interpretation other than that above set forth, canners should request him to communicate with the appropriate officials in Washington.

## Sardine and Tuna Trade Practice Conferences

The Federal Trade Commission has authorized trade practice conferences for two fish packing industries. On July 21 at 10 a. m., the sardine canning industry will hold a conference under auspices of the Commission in San Francisco at the Palace Hotel. On July 24 at 10 a. m., the tuna packing industry will hold its conference in Long Beach, Calif., at the Hilton Hotel.

Commissioner Charles H. March will preside at each conference. Among subjects which have been suggested for discussion at the conferences are: Misrepresentation of industry products; commercial bribery; false invoicing; inducing breach of contract; defamation of competitors or disparagement of their products; enticing away competitors' employees, and unlawful price discriminations.

### World Canned Food Production and Trade

Under the title "Fruit Canners of the World," the Foodstuffs Division of the Bureau of Foreign and Domestic Commerce will issue a survey on world canned fruit production and trade, prepared by C. E. Birgfeld, assistant chief of that Division. This is the first survey of the kind to be published by the Department of Commerce, and it will furnish valuable information for exporters regarding trends of production in countries competing with the United States for world markets.

Preliminary announcement of the publication brings out the fact that international trade in canned fruits has increased by 50 per cent in the past eight years, largely as a result of the entrance of Canada and Japan into the canned fruit markets of the world. Exports from each of these two countries were negligible in 1931. In addition, canned fruit shipments from Australia doubled between 1931 and 1938, and shipments from the Philippine Islands, although at lower levels, increased five-fold. The United States also increased its exports of canned fruits during this eight-year term, recording an average gain of about 800,000 cases for the 1935-38 period as compared with 1931-34.

Sales copies of "Fruit Canners of the World" will be available in about six weeks. Those interested in being notified of the availability of this publication, when released, are invited to so inform the Foodstuffs Division, Bureau of Foreign and Domestic Commerce, Washington, D. C.

### B. A. E. to Revise Standards for Grades

The standards for grades of canned fruits and vegetables used by the Bureau of Agricultural Economics in its inspection and grading service are being revised and the Bureau is desirous of obtaining constructive comment and suggestions. Copies of the proposed standards and grades, as they are issued from time to time, will be forwarded upon application to the Bureau of Agricultural Economics, Washington, D. C.

### Standards for Pears for Canning

New U. S. standards for pears for canning have been issued recently by the United States Department of Agriculture. These standards relate to the raw product. Copies of the standards, which are recommended by the Department as a basis for the contracting for pears for canning between canners and growers or shippers, may be obtained from the Bureau of Agricultural Economics, United States Department of Agriculture, Washington, D. C.

### Veterans Bureau to Buy Canned Peaches

The Veterans Administration is asking for bids, to be publicly opened on July 25, on 2,685 dozen No. 10 cans of pie peaches (solid pack or water pack), packed six to the case. Of these, 925 dozen are for delivery f.o.b. Perryville, Md.; 310 dozen f.o.b. San Francisco; and 1,450 dozen f.o.b. Chicago.

Copies of the invitation, including specifications and general conditions, can be obtained by communicating with the Procurement Division, Veterans Administration, Washington, D. C.

### Sieve Sizes in 1938 Pea Pack

Summarized statistics on the shipments of canned peas during the year ending May 31, 1939, have been compiled and issued by the Association's Division of Statistics. Shipments are shown by region, sieve size, varieties, and grades.

In connection with these figures the Division has also compiled a summary table, which will be of interest to canners now putting up the 1939 pack, showing the percentage of the respective sieve sizes packed from the 1938 crop. Peas ungraded for size are not included in this compilation, consequently the 100 per cent shown in the following table refers to the total pack of graded peas.

	No. 1	No. 2	No. 3	No. 4	No. 5 and up	Total
	Per cent	Per cent	Per cent	Per cent	Per cent	Per cent
New York and Maine:						
Alaskas.....	9.0	30.9	36.8	13.1	1.2	100.0
Sweets.....	2.2	12.6	21.0	34.7	29.5	100.0
Middle Atlantic:						
Alaskas.....	2.5	17.2	48.9	30.2	1.2	100.0
Sweets.....	2.6	5.1	10.4	52.6	29.3	100.0
Mid-West:						
Alaskas.....	4.9	25.1	44.0	23.1	2.0	100.0
Sweets.....	2.1	10.0	18.1	31.5	38.3	100.0
Western:						
Alaskas.....	6.0	20.2	43.8	25.9	4.1	100.0
Sweets.....	3.3	9.8	18.9	31.5	36.5	100.0

### Temperature and Rainfall Records

The following table gives the average temperature and total rainfall for the principal pea-growing districts for each of the past two weeks, as shown by the U. S. Weather Bureau reports for selected stations in these districts:

District	Week ended June 20, 1939		Week ended June 27, 1939	
	Temp.	Rain	Temp.	Rain
Maine.....	68	1.1	62	.5
Western New York.....	63	.8	66	.1
Tri-States.....	74	2.1	77	.9
South Central Ohio.....	73	2.7	76	.4
Central Indiana.....	74	1.2	76	1.1
Central Illinois.....	74	1.9	75	.8
Northern Illinois, Southern Wisconsin.....	68	.5	74	.7
Southern Minnesota.....	66	1.6	71	1.5
Northern Colorado.....	69	.1	68	.1
Northern Utah.....	62	.8	70	.0
Northwestern Washington.....	59	.6	60	.2
Southeastern Washington.....	62	.1	66	.0

### Fruit and Vegetable Market Competition

Carlot Shipments as Reported by the Bureau of Agricultural Economics, Department of Agriculture

VEGETABLES	Week ending—			Season total to—	
	June 24 1938	June 24 1939	June 17 1939	June 24 1938	June 24 1939
Beans, snap and lima.....	108	25	95	7,066	6,457
Tomatoes.....	1,733	1,245	1,780	23,224	17,899
Green peas.....	198	233	162	3,556	4,262
Spinach.....	0	8	0	6,457	6,130
Others, domestic, competing directly.....	826	1,303	2,566	73,329	66,699
Fruits					
Citrus, domestic.....	3,160	3,368	3,703	135,492	147,433
Imports.....	19	1	0	183	78
Others, domestic.....	1,479	1,732	1,300	12,246	12,031

## CANNED FOOD EXPORTS AND IMPORTS

EXPORTS	May, 1938		May, 1939		Jan.-May, 1938		Jan.-May, 1939	
	Pounds	Value	Pounds	Value	Pounds	Value	Pounds	Value
Meats, total.....	936,656	\$305,482	1,444,442	\$441,629	6,139,799	\$2,136,038	6,588,525	\$2,070,719
Beef, corned, etc.....	27,255	5,282	36,870	7,723	216,659	59,046	164,329	37,587
Other beef.....	113,577	43,717	116,601	41,826	847,233	303,979	660,448	249,555
Pork.....	573,814	202,557	961,659	313,913	3,862,472	1,477,913	4,204,856	1,425,135
Sausage.....	90,598	26,171	164,151	42,232	547,058	156,795	765,009	206,591
Other meat.....	131,412	27,755	165,161	35,935	666,377	138,305	793,883	151,851
Vegetables, total.....	2,538,855	227,609	4,856,832	439,427	13,185,289	1,200,445	16,343,737	1,389,630
Asparagus.....	770,590	107,247	2,134,865	267,471	3,146,215	474,357	4,535,313	577,575
Beans, baked and with pork..	404,731	19,009	412,134	17,791	2,163,769	98,557	2,222,844	90,563
Corn.....	108,605	8,312	228,768	15,906	916,975	70,065	1,288,680	92,755
Peas.....	163,935	12,490	691,494	33,770	1,619,255	125,283	2,037,913	130,329
Soups.....	285,022	27,439	276,880	28,027	1,230,675	123,644	1,232,917	125,920
Tomatoes.....	65,341	4,406	88,487	5,969	485,546	30,572	643,039	38,625
Tomato paste and puree.....	61,527	5,510	140,926	11,218	622,439	42,742	655,773	48,804
Tomato juice.....	491,747	26,181	367,939	19,159	1,544,196	89,716	1,202,895	70,808
Other vegetables.....	187,357	16,835	515,339	40,116	1,456,219	145,509	2,524,363	214,251
Condensed milk.....	1,366,317	180,006	148,233	18,043	2,765,282	397,201	789,959	88,424
Evaporated milk.....	1,414,218	104,282	2,508,168	155,621	8,984,823	661,430	9,533,271	615,188
Fish:								
Salmon.....	2,182,292	351,161	1,986,827	288,196	12,970,299	2,178,068	18,972,483	2,815,167
Sardines.....	1,192,383	86,035	2,766,923	173,911	16,914,324	1,143,914	21,763,131	1,440,160
Other fish.....			127,054	10,544			1,094,765	89,789
Shellfish—								
Shrimp.....	313,948	79,369	475,139	73,686	1,724,397	377,960	2,422,665	374,887
Other shellfish.....	71,795	10,921	77,603	12,147	495,577	72,567	385,622	60,472
Fruits, total.....	18,497,755	1,441,710	24,512,048	1,603,806	108,050,997	8,087,629	130,497,336	8,483,187
Grapefruit.....	3,424,198	230,439	4,749,835	256,815	26,563,938	1,755,326	30,188,072	1,602,361
Loganberries.....	75,781	6,324	16,827	1,198	186,363	16,436	215,041	16,025
Other berries.....	103,978	9,637	68,575	5,107	378,542	41,042	274,892	26,104
Apples and sauce.....	901,069	40,743	1,409,298	60,525	4,039,922	182,196	5,461,779	235,924
Apricots.....	2,594,031	176,779	1,558,424	102,778	9,425,642	656,318	10,041,523	643,002
Cherries.....	368,212	33,748	84,518	6,627	1,025,951	111,767	1,473,811	118,509
Prunes.....	61,610	5,039	63,440	5,129	485,079	43,191	582,663	39,143
Peaches.....	3,499,475	256,215	6,646,489	407,782	19,520,091	1,389,724	30,483,361	1,819,470
Pears.....	3,070,023	225,859	3,537,448	248,655	28,273,083	1,964,796	28,254,371	1,866,451
Pineapple.....	792,257	71,530	3,780,115	263,048	4,056,375	373,162	7,356,150	567,232
Fruit salad and cocktail.....	3,335,860	355,931	2,322,269	221,373	12,901,651	1,432,547	14,668,048	1,419,540
Other fruits.....	271,261	29,466	274,810	24,769	1,194,360	121,124	1,497,625	129,426
Fruit juices:								
Pineapple.....			107,941	55,135			302,474	165,727
Grapefruit.....			296,560	102,978			1,028,800	356,220
Orange.....			46,252	33,935			200,783	152,582
Other fruit juices.....			34,755	30,231			145,476	130,394
IMPORTS								
Meat:								
Beef.....	9,673,041	1,020,924	11,281,097	1,106,060	30,851,518	3,313,353	33,117,310	3,358,115
Other meats.....	20,709	5,920	13,006	3,363	70,545	19,797	101,643	28,110
Milk: cond. and evap.....	33,964	3,155	14,789	1,202	254,551	20,081	78,305	4,753
Fish:								
Packed in oil—								
Sardines.....	1,336,403	193,344	2,201,461	315,395	7,140,254	1,102,852	10,888,121	1,621,158
Anchovies.....	207,277	97,198	148,746	55,083	887,289	409,235	1,079,595	412,876
Tuna.....	998,448	127,660	1,203,848	179,101	2,645,045	421,717	4,103,265	659,220
Other fish in oil.....	37,807	9,780	31,718	8,553	244,946	70,953	214,757	61,664
Other fish not in oil.....	827,062	74,942	1,794,721	148,805	5,692,242	508,381	6,656,000	602,230
Caviar and other roe.....	6,283	1,897	5,892	4,219	57,564	20,137	65,345	39,944
Shellfish—								
Crab meat and sauce.....	609,023	220,296	711,017	244,392	2,252,837	783,111	4,312,376	1,519,419
Clams and oysters.....	75,723	15,527	83,012	17,215	274,717	58,427	374,717	90,229
Lobsters.....	94,279	37,127	60,941	28,254	229,286	95,577	224,878	96,616
Other shellfish.....	1,458,124	57,836	499,525	42,087	6,427,295	458,124	7,936,162	537,361
Vegetables:								
Peas.....	32,009	2,350	56,971	6,021	246,795	21,351	970,514	107,041
Pimientos.....	115,732	16,510	22,481	2,855	530,646	67,811	85,184	11,029
Mushrooms.....	64,195	15,539	100,170	19,145	349,443	87,743	358,231	73,564
Tomatoes.....	3,233,610	133,994	5,581,127	235,496	20,072,159	835,514	28,801,198	1,127,844
Tomato paste and sauce.....	532,084	40,010	557,293	49,883	3,350,662	231,454	3,260,831	250,059
Other vegetables.....	11,141	836	8,083	518	70,467	4,607	104,256	5,291
Fruit:								
Pineapple, dutiable.....	239,670	12,110	1,483,120	66,713	1,811,369	79,404	7,077,090	279,605
Pineapple, free (Philippines).....			8,603,179	386,031	965,044	48,843	13,056,729	570,582
Mandarin oranges.....	233,727		81,175	4,526	1,017,230		541,105	



## CONGRESS SUMMARY

### Week Devoted to Appropriation Measures and Laws Expiring June 30th

Congress during the past week devoted its time almost exclusively to action on appropriation bills and bills for the continuance of various laws expiring with the fiscal year ending June 30. As a consequence proposed legislation on other subjects, such as revision of the wage and hour law, was laid aside.

With new proposals before Congress for the stimulation of business and with the controversy over neutrality legislation, present prospects are for a longer session of Congress than was anticipated. Prolongation of the session will provide opportunity for Congress to take up wage and hour and other measures that have not been pushed during the closing weeks of the fiscal year.

Possible Senate action on wage-hour legislation was indicated by an Associated Press dispatch on June 29, which stated:

"Senator Miller, Democrat, of Arkansas, said yesterday he would try to attach to some administration bill an amendment to the wage-hour law clarifying its application to the first processing of farm products.

"Other Senators said it was likely that if Senator Miller should be successful an effort would be made to obtain a vote on wage-hour amendments suggested by Administrator Elmer Andrews.

"Senator Miller wants to eliminate from the law the phrase, 'area of production,' which has been the center of controversy over application of the Wage-Hour Act to farm processors.

"House action on amendments twice has been blocked by objections of farm organizations. The Miller proposal was approved by five such groups—the American Farm Bureau Federation, National Grange, National Co-operative Council, National Co-operative Milk Producers' Federation and the Agricultural Producers Labor Committee."

Meantime, of course, canners will operate under the present wage and hour law and regulations, which have been discussed in various issues of the INFORMATION LETTER. Canners are advised to refer especially to the articles in the INFORMATION LETTER for April 22, May 27, and June 17.

The Lea bill extending the effective date of certain labeling requirements of the new Food and Drugs Act was signed by the President on June 23. The provisions of the bill as finally enacted were summarized in last week's INFORMATION LETTER.

The Senate Agricultural Committee reported favorably on June 27 a bill (S. 2110) to enable the Federal Surplus Commodities Corporation to purchase, handle, and dispose of fish and fishery products in the same manner as it purchases, handles, and disposes of agricultural commodities. Sometime ago the Senate Commerce Committee reported a more extensive fishery bill designed in part to accomplish the same purposes. Both bills are pending on the Senate Calendar.

In reporting its bill the Senate Agricultural Committee stated that "while the Department of Agriculture did not submit a formal report on the bill, certain representatives from the Department appeared before the Committee and

expressed themselves as being favorable toward the bill. They stated that the facilities of the Federal Surplus Commodities Corporation were in such shape that it could adequately take care of the authorization contained in the bill."

### Tomato Spraying Results Announced

Beneficial results through the use of a lime-free copper spray on tomatoes to protect them against disease, in place of the standard bordeaux mixture, have been obtained in tests conducted at the New York Agricultural Experiment Station for several years. Bordeaux is a highly alkaline spray and young tomato plants, particularly, are sensitive to it; and although disease may be controlled, this is often accomplished at the cost of reduced yield. The lime-free sprays appear to give very nearly as good disease control without injuring the plants and reducing yields.

Time and frequency of applying the spray have also been studied at this Experiment Station and results of last year's tests show that the first application of spray should be delayed until the first leaves die from blight, rather than following the present all-season spraying program regardless of disease development. It is pointed out by the Station specialists that all indications point to late spraying as being both more effective and more economical than early frequent spraying.

### Stocks of Canned Tomato Juice

Stocks of canned tomato juice in canners' hands on June 1 totaled 3,617,185 cases of all sizes of cans. This represents a decrease of 906,308 cases from the stocks on hand on May 1.

### Canning Developments Outlined in Talk

During the summer session at the University of Maryland home economics teachers from that State make up a large part of the student body. A new course offered this year is designed to furnish information about what is new in foods. Miss Atwater of the Association's Home Economics Division was asked to outline the new developments in the canning industry, and she spoke at the University on June 28th.

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